

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

MINUTES/PROCEEDINGS

Regular Board Meeting
Board of Directors
District Board Room
425 South Main Street
Los Angeles

December 14, 1989

Called to order at 1:05 p.m. by President Swanson:

Directors Present:

Gordana Swanson
Marvin L. Holen
Joseph S. Dunning
Larry Gonzalez
Jan Hall
Jeff Jenkins

Jerold F. Milner
Nick Patsaouras
Jay B. Price
Charles H. Storing
Kenneth R. Thomas

6. APPROVED an experimental promotional 25-cent cash fare for boardings on RTD buses in the Los Angeles Central Business District from 11:00 a.m. to 2:00 p.m. during the period December 18 to December 29, 1989.

J. Walsh expressed his opinion on this subject matter.

1. Report of the President

- a. Received and filed report on the status of Accounts Receivable Over 30 Days Old from the Los Angeles County Transportation Commission.

Following a question regarding the status of the billing for service provided in the San Gabriel Valley Transit Zone, on motion duly made, seconded and carried, with Directors Jenkins and Patsaouras objecting, the General Manager was authorized to explore and take whatever steps are necessary, including legal action, to collect the funds due and to protect the interests of the District.

- b. Discussion on the status of the General Manager's proposal for the construction of MOS-II of the Metro Rail Project.

President Swanson reported on the activities of the Committee that was charged with the responsibility of working with an LACTC Committee on this subject. Two meetings were held by the committee members. Messrs. Pegg and Peterson also met. The President concluded her remarks by urging the Board to approve the agreement attached to the report dated December 13, 1989.

General Manager Pegg spoke about the ministerial agreements reached during negotiations with Mr. Peterson; i.e., some improvements in billing terms, frequency of billing, etc. However, there remains in the LACTC document clauses which would have an adverse impact on the District's operations; in particular there is reference to an undimensioned consolidation of various District functions into the Rail Construction Corporation.

Mr. Pegg continued his comments by stating that the LACTC's document is unsatisfactory. It attempts to resolve two issues, i.e., construction and reorganization of rail construction in this County. The LACTC stated three points they wanted to accomplish their document: 1) to create a situation of continuing control over the financial elements of the Project, 2) to create a situation of continuing control over the timing of project execution, and 3) to provide for consolidation of rail. He stated that the District's document does not address the LACTC's third point. It is a straight-forward construction contract; it does not provide for the control of District employees by the LACTC; it does not provide for a fixed and unremedial target with respect to the budget.

In response to a question by Director Thomas, Mr. Pegg stated the adoption of the District's document by the Board would be an incomplete act because it would require action by the LACTC to complete the document. However, he continued that the staff has put together an agreement under which the District believes it can do the job. He further commented that he did not believe the LACTC would accept or adopt this document, but the District would be on record as having made an offer.

In conclusion, President Swanson urged the Board to approve the agreement offered by the District.

J. Walsh spoke on the subject of construction of Metro Rail.

Director Hall presented a motion to approve and authorize the General Manager to execute the staff document. This motion was seconded and discussion continued.

Director Thomas asked about the compatibility of Items 1B and 3A on the agenda. Mr. Pegg stated that Item No. 3A would require some amendments to be compatible with 1B. Director Holen suggested that, after adoption, the Board approved document be forwarded for development of a third document and he also commented that the new Chairman of the LACTC would be amenable to a joint meeting of the two agencies. After other comments, Director Holen suggested an amendment to the motion to forward both documents, i.e., 1B and 3A to the LACTC for their consideration and resources for the negotiation of a document incorporating the best of both documents. Director Hall indicated she would accept the amendment.

Councilman Nate Holden, City of Los Angeles, appeared before the Board. His comments covered the intent of the Legislature in the creation of the LACTC, and his position on the construction of Metro Rail. He spoke to the Memorandum of Understanding and the Eight Point Agreement executed by the LACTC and the District. He indicated he will not support the LACTC's position, nor the 'power drunk' machinations of that agency. To relinquish control of the construction of Metro Rail to the RCC, a subsidiary of the LACTC, will punish the taxpayers of the County; it will generate additional cost overruns. The Councilman spoke about the bonus the LACTC will pay to Mr. Peterson for the accomplishment of the Rail Construction Corporation (RCC). He indicated this same action also will result in cost overruns. He urged the District to continue to build MOS-1, and to build MOS-2 and 3 as this agency contracted to build.

Director Thomas asked Councilman Holden how he would break the impasse that exists between the District and the LACTC so that progress could be made. Councilman Holden replied that he has informed the LACTC that they do not have the authority to break the agreement contained in the MOU and the Eight Point Plan. He agreed that the LACTC has the authority to establish the RCC or any sub-agency, but they cannot make it retroactive. The agency required to construct the first eighteen miles of Metro Rail is clearly spelled out in the MOU. He asked if the Board members had read the MOU, suggesting that members who had not read the document could not be prepared to vote today. He suggested that for the good of the community, the District should send word to the LACTC that there is a willingness to discuss this matter and to request a joint meeting.

Director Patsaouras spoke, urging his fellow Board members to approve the agreement presented to them under Agenda Item No. 3A. There has been countless hours of staff time spent on this issue and it is time to move on. To approve the document presented by the General Manager will not resolve the issue; therefore, why waste more time on it.

Director Jenkins suggested a vote be taken on each of the proposals. Prior to the vote, Director Holen withdrew his amendment to the motion.

A Roll Call vote was take on Director Hall's motion to approve the agreement for the design and construction of Minimum Operable Segment Two (MOS-2), and the motion carried on the vote as noted below:

Ayes:	Hall, Holen, Price, Storing, Thomas, Swanson
Noes:	Dunning, Gonzalez, Jenkins, Milner, Patsaouras
Abstain:	None
Absent:	None

2. Report of the General Manager

General Manager Pegg said the District is in the midst of a shake-up and approximately 50% of the routes are experiencing improvements. Buses and hours are being added to accomplish the improvements.

3. Director Special Items

Director Storing read into the record a proclamation presented to the District by the City of Rosemead congratulating the District on its 25 years of service to Southern California.

- 3A. Considered Agreement for the design and construction of Minimum Operable Segment Two (MOS-II) of Metro Red Line and all light rail systems and adopted concept of Rail Construction Corporation and establishment of an independent group to determine terms of the contract between the District and Rail Construction Corporation.

On motion duly made by Director Patsaouras and seconded, the proposed agreement was recommended for approval with changes to Sections 2.0 and 4.8 as distributed to Board members and filed with the District Secretary. Discussion ensued, with President Swanson suggesting the two-page recap not be a part of the agreement. She then distributed a recap of her suggested revisions to the agreement proposed by Director Patsaouras. Upon question, she reiterated each of her suggested changes. Director Hall then stated her concern with the proposal put forth by Director Patsaouras and her belief that the concept and the contract do not match. Director Patsaouras responded that the intent is that the RTD will get out of the subway construction business and get on with the bus business. He continued that the purpose of this agreement is the spirit of coming to a local solution, not necessarily whether each and every point in the document is good or bad. Following additional comments, Director Hall indicated she would vote against the motion, stating her belief that this is a big mistake.

In response to allegations about the low morale of the District's employees, General Manager Pegg spoke about the impact of the proposed agreement on the employees, but that the high rate of accomplishment would certainly belie the comment that morale is universally low at the District. Mr. Pegg continued that it is argued that this proposed agreement will allow more attention to be given to the bus operations, yet he cited several significant accomplishments made recently, and noted that given the funding constraints placed on operations, more simply cannot be achieved. In conclusion, he mentioned the proposition advanced, that this agreement will 'fix whatever is wrong' but 'whatever is wrong' has not been dimensioned and he inquired about how the District will know that whatever is wrong has been fixed.

Director Price commented on the clauses regarding the transferring of contracts to RCC on uncompleted work on MOS-

1 and on the proposed make-up of the RCC Board. He also questioned the intent of the statement in the contract that the District shall be the 'operator' of rail systems. He urged that a definition of duties be added to the document.

Director Jenkins commented that if the Board did not adopt the proposed document today, the purpose of disintegrating the two systems has been accomplished.

G. Roberts appeared before the Board, speaking in support of the District's construction of Metro Rail.

Director Storing mentioned that the Board had already approved a document regarding rail construction under Agenda Item No. 1B and the document under discussion was totally unnecessary.

During discussion, President Swanson inquired of Director Patsaouras what his intent was, given the action of the Board on Agenda Item No. 1B. Director Patsaouras replied that he wanted the Board to vote Agenda Item 3A either up or down. General Counsel Gifford, upon question, stated that to a large extent, Items 1B and 3A are mutually exclusive. In effect, both items would go to the LACTC for them to choose one or the other.

Prior to the vote, President Swanson commented that first, this agency had before it the Memorandum of Understanding and then the Eight-Point Plan, and now there is the Rail Construction Corporation. By the proposed agreement, the District is to do all the work, to take all liability, to hold the Benefit Assessment District hearings, and to collect the monies and turn it over to the LACTC. There are many other clauses in the document which, in her opinion, curtail the progress of Metro Rail. In conclusion, she urged the Board to vote against the motion on the floor, calling it an exercise in insanity and power-grabbing and further stating that it was wrong politically, fiscally and mechanically; it was a bad idea and it wouldn't work.

General Manager Pegg commented again that approval of this document would be turning over the District's management rights and no indemnity is provided. We would have all the liability and none of the management rights. The District cannot, unilaterally, remove itself from its status as grantee of MOS-1. The District could be obligated to complete the project if there were any matter of default. The Benefit Assessment District legislation provides that funds are to be applied to facilities of the District. This document has gone through massive change over the past few weeks. Today, it is stated that we must adopt the document or drop dead. It doesn't make sense to give away all our rights and retain all our liabilities.

Director Hall generated a discussion about the personal liability of the Board members if professional and legal advice is not followed. It was stated that several questions have been asked about the nonfeasance, malfeasance and misfeasance of Directors. These questions are complex and cannot be answered quickly or simply.

Following additional discussion, Director Thomas presented the following language to amend Director Patsaouras' motion, whether it be a condition to acceptance of the document or a part of the document: "That both the District and LACTC agree to appoint a Transit Operations Task Force composed of outside experts, with the Task Force to review and recommend changes in the auditing and funding policies and procedures used by the LACTC in its review of the District to assure that the District has the most rider/consumer oriented budget possible. The Task Force would have three members nominated by the District, three members nominated by the LACTC and one member nominated by the Mayor of the City of Los Angeles. The Task Force will be appointed immediately for a period of six months, and it will report its findings to the District Board of Directors monthly and will forward appropriate recommendations to the LACTC for action." Director Patsaouras accepted the amendment to his motion.

Director Thomas made a statement for the record that in his opinion the proposal before the Board is not a model of draftsmanship. It is fraught with ambiguity and uncertainty; it certainly is not a model for organizational structure; it is a potential nightmare for administration; it doesn't provide a vehicle to resolve conflict, but provides a method by which conflicts are going to constantly occur. The potential composition of the RCC Board is scary. All the good will on this Board, all the good people on this Board and our excellent staff have had to struggle mightily on affirmative action programs. Now we go to seven multi-million dollar experienced people and affirmative action is only a word if you don't have experienced people to administer it. He continued that it was clear that the Memorandum of Understanding of 1980 and the Eight-Point Plan of 1988 specified that the District was to be the rail constructor. It is also apparent that the District has been approved by UMTA as a certified builder; it is also apparent that LACTC, at present, does not have the capacity or the staff or the ability to construct MOS-2. It is apparent that they need the District, and they need the District through its consent, to do anything. He commented on his concern when he was presented this proposal early the day before, then when an amendment was presented late in the afternoon and then during a conference with Neil Peterson last night on why he should vote for this proposal. He continued that the District has taken some severe blows regarding its public image; now

whether that was actual or merely perceived, whether it has been precipitated by LACTC action or not is not really of moment. The fact is that the perception is there. Maybe for that reason alone, the Board should move forward and vote for this proposal. The bickering has been interminable; there is no way for us to agree on anything that can be foreseen. Any proposition that would call for meeting again is just hogwash; meeting again will not accomplish anything. Stonewalling on either side should not be the basis on which to make our decision. The decision has to be made on what's best for public transit, considering 1) the public image of this District, and 2) the fact that we are making no progress and there is no prospective method through which we can make progress. We are faced with a dilemma, its either status quo or voting for something as dramatic as this absurd proposal. There appear to be no alternatives.

Director Holen commented that last year, when the Eight-Point Plan was before the Board, the District was assured that upon adoption everything would be fine. However, that document was not about the construction of Metro Rail. There had not been started the deliberate effort to discredit the District's management of Metro Rail which culminated in July with Peterson's memorandum. The effort started before then with the issues of labor negotiations, and before then with the issues of bus ownership, how many service hours, how many miles could be operated, etc. so that, in effect, step by step, the LACTC is replacing the District. In many areas, the LACTC and the District are mirror images; the only difference is that the District has the direct responsibility for the delivery of service on the streets. Director Holen concluded that if approval of the motion on the floor would end the interference of the LACTC in the District's affairs he would vote for it, however, that won't happen. He also spoke to the comments made earlier by Councilman Holden about the payment of bonus funds to a public official based on some kind of achievement that relates to interagency relationships. He requested a copy of Mr. Neil Peterson's employment agreement and all corollary agreements.

Following a dialogue between Directors Thomas and Hall, Director Hall commented that perhaps it is time for the District to focus on enforcing the documents we have rather than creating another document.

President Swanson urged Director Thomas to consider changing his amendment to the motion to a substitute motion because it is a good idea and is worthy of consideration on its own merit. Director Thomas responded that he would change his tack entirely. He proposed a substitute motion that the District go on record as approving the Rail Construction Corporation (RCC) composed of a Board of three members

selected by the District, three members selected by the LACTC, and one member selected by those six members, and that the balance of the document under Agenda Item 3A be submitted to be an independent body in order to determine the terms of the contract between the District and the RCC, with the independent body to be composed of three appointees by the District, three appointees by the LACTC and one appointee of the Mayor.

A Roll Call vote was taken, following comments of clarification of the contents and intent of the substitute motion. The results are as follows:

Ayes: Hall, Holen, Price, Storing, Thomas, Swanson
Noes: Dunning, Gonzalez, Jenkins, Milner, Patsaouras
Abstain: None
Absent: None

The following resolution was adopted:

RESOLVED, that the Board of Directors of the Southern California Rapid Transit District (SCRTD) approve the concept of a Rail Construction Corporation (RCC) which is to be composed of three members selected by SCRTD, three members selected by Los Angeles County Transportation Commission (LACTC), and one member selected by the collective body; and

FURTHER RESOLVED, that the balance of the document "Los Angeles County Transportation Commission/Southern California Rapid Transit District for the Design and Construction of Minimum Operable Segment Two (MOS-2) of Metro Red Line and all Light Rail Systems" (attachment A) be submitted to an independent body composed of seven rail transit construction professionals, three members to be selected by SCRTD, three members to be selected by LACTC, and one by the Mayor of Los Angeles, to determine the terms of the contract between the District and the RCC; and

FURTHER RESOLVED, that a task force of outside professionals be set up to review and recommend changes in the funding and auditing policies and procedures used by the LACTC for SCRTD.

4. WITHDRAWN BY STAFF proposed changes the non-contract pension plan.

5. WITHDRAWN BY STAFF consideration of addition, reclassification and deletion of certain Non-Contract positions related to Transit Systems Development.

CONSENT CALENDAR

Items 7 through 17, except item 10 which was withdrawn by staff, on the consent calendar were approved unanimously in one motion with 10 directors present.

7. APPROVED Requisition No. 9-9400-406 and an option for one additional year with Western Petroleum, Paramount, covering SAE 40, H.D. crankcase oil at an additional estimated cost of \$442,836; form of option subject to approval of the General Counsel.

8. APPROVED a contract with Design Build Associates, Tustin, the lowest responsible bidder under Bid No. CA-90-X181-Z covering the El Monte Station expansion for a total bid price of \$215,821; form of contract subject to approval of the General Counsel.

This project is funded in part under UMTA Grant CA-90-X181.

9. APPROVED a month-to-month rental agreement with Adolfo Zlotolow to lease District owned property located at the southwest corner of Wilshire & Crenshaw (4200 Wilshire Blvd.) at a monthly rate of \$3,100; form of agreement subject to approval of the General Counsel.
10. REMOVED BY STAFF a 10-year License Agreement with National Advertising Co.

11. Received and filed Report Calendar - Nov. 9 to December 7, 1989.
12. Received and filed Statement of Purchases - \$5,000 to \$99,999 for November, 1989.
13. Received and filed Treasurer's report on District Investments of Funds for November, 1989.
14. RATIFIED temporary route diversions as filed with the Secretary.
15. RATIFIED bus stop zone changes as filed with the Secretary.
16. Approved Board Request List as of December 11, 1989
17. APPROVED minutes of Special Board Meeting held November 2 and regular meetings held November 9 and 16, 1989.

POLICE & PUBLIC SAFETY COMMITTEE

18. APPROVED contract with the County of Los Angeles Probation Department to participate in their "Juvenile Paid Work Crew Program" to perform graffiti removal from RTD buses, at an estimated cost of \$315,000 through June 30, 1990; form of documents subject to approval of General Counsel.

UNANIMOUS, with 9 directors present

19. APPROVED staff to continue hiring and training Transit Police for the Light Rail operation, and, for legal staff and the General Manager to take whatever steps are necessary to prepare to go directly to court to define what is operations.

CARRIED, Directors Jenkins and Patsaouras voted "No"; 9 Directors were present

MARKETING & CUSTOMER INFORMATION COMMITTEE

20. Received and filed status report on proposed Blue Line marketing plan.

UNANIMOUS, with 9 directors present

Appearance of E. Duncan regarding the marketing plan.

JOINT COMMITTEE MEETING EQUAL OPPORTUNITY & AFFIRMATIVE ACTION COMMITTEE AND PERSONNEL & LEGAL COMMITTEE

21. APPROVED transfer of Equal Opportunity function of the PDCD to the Equal Opportunity Department of the RTD.

UNANIMOUS, with 9 directors present

EQUIPMENT & OPERATIONS COMMITTEE

22. APPROVED contracts with the lowest responsible bidders under Bid No. 10-8927 covering new or acrylic window glazing for a one-year period, with an option for one additional year at the election of the District on (a) only:

- a. Hare Enterprises, Long Beach, covering resurfaced acrylic windows for an estimated annual price of \$479,130; and
- b. Almac Plastics, Brooklyn, New York, covering 1,750 new acrylic windows for a total cost of \$672,822;

form of contracts subject to approval of the General Counsel.

UNANIMOUS, with 9 directors present

23. APPROVED Requisition No. 9-9400-411 and an option for one additional year with Plastech Transparencies, Irwindale, covering resurfacing bus windows at an additional estimated cost of \$200,000; form of option subject to approval of the General Counsel.

UNANIMOUS, with 9 directors present

24. REJECTED all bids submitted under Bid No. 11-8917 and authorized reissuance of bid invitations with revised bid specifications covering the District's projected annual usage of electrical supplies for an estimated annual cost of \$220,000; form of documents subject to approval of the General Counsel.

UNANIMOUS, with 9 directors present

EXECUTIVE COMMITTEE

25. Received and filed Inspector General's report for the first quarter of fiscal year 1990.

UNANIMOUS, with 8 directors present

ADVANCE PLANNING COMMITTEE

26. Received and filed report on the impacts of bus service changes planned for rail lines on supplemental funds from the Second Supervisorial District.

UNANIMOUS, with 8 directors present.

27. Received and filed evaluation report on the combination of Lines 1 and 217.

UNANIMOUS, with 8 directors present

Appearance of J. Walsh objecting to the change.

28. Received and filed report concerning recent action by the LACTC on re-adoption of Proposition A Discretionary Funding Guidelines.

UNANIMOUS, with 8 directors present

GOVERNMENT RELATIONS COMMITTEE

29. Received and filed Federal Legislative update.
UNANIMOUS, with 8 directors present
30. Received and filed the Draft 1990 Legislative Program.
UNANIMOUS, with 8 directors present
31. Received and filed report on Workers Compensation Law.
UNANIMOUS, with 8 directors present

RAPID TRANSIT COMMITTEE

32. WITHDRAWN BY STAFF amendment to contract A640, with Bechtel Civil Inc.
33. APPROVED:
- a. contract with P. J. Software, Torrance, under RFP 89-17 covering the provision of software modification to Data Processing Systems to accommodate rail operations for \$393,249; form of contract subject to approval of the General Counsel, and
 - b. DEFERRED contract amendment with P. J. Software, Torrance, for additional segments of work up to \$328,751 pending further analysis.

This procurement is funded in part under UMTA Grant CA-99-9979.

UNANIMOUS, with 9 directors present

GENERAL ITEMS

34. There were no items arising subsequent to the posting of the agenda.

36. Public Comment

Appearance of Mr. Massa requesting a status of his protest in being substituted as a subcontractor on a District project. Following discussion, staff was requested to carefully review public code 4107 to determine if there was a violation in substituting this subcontractor, and, if so, to report back to the Board.

Appearance of G. Roberts speaking on transit matters.

Prior to recessing to Closed Session, President Swanson announced that the meeting was being adjourned in memory of Mayor Alex Hughes of Claremont.

35. Recessed to Closed Session at 5:28 p.m. to consider labor negotiations. Adjourned at 6:00 p.m. with no report being made.


Helen M. Bolen
District Secretary